

SECOND REGULAR SESSION

HOUSE BILL NO. 1662

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FISHEL.

3849H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 59.310, 59.313, and 442.403, RSMo, and to enact in lieu thereof three new sections relating to restrictive covenants.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 59.310, 59.313, and 442.403, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 59.310, 59.313, and 442.403, to read as follows:

59.310. 1. The county recorder of deeds may refuse any document presented for recording that does not meet the following requirements:

(1) The document shall consist of one or more individual pages printed only on one side and not permanently bound nor in a continuous form. The document shall not have any attachment stapled or otherwise affixed to any page except as necessary to comply with statutory requirements, provided that a document may be stapled together for presentation for recording; a label that is firmly attached with a bar code or return address may be accepted for recording;

(2) The size of print or type shall not be smaller than eight-point type and shall be in black or dark ink. Should any document presented for recording contain type smaller than eight-point type, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(3) The document must be of sufficient legibility to produce a clear and legible reproduction thereof. Should any document not be of sufficient legibility to produce a clear and legible reproduction, such document shall be accompanied by an exact typewritten copy

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 not smaller than eight-point type to be recorded contemporaneously as additional pages of the
18 document;

19 (4) The document shall be on white ~~paper~~ or light-colored **paper** of not less than
20 twenty-pound weight without watermarks or other visible inclusions, except for plats and
21 surveys, which may be on materials such as Mylar or velum. All text within the document
22 shall be of sufficient color and clarity to ensure that when the text is reproduced from record,
23 it shall be readable;

24 (5) All signatures on a document shall be in black or dark ink, such that such
25 signatures shall be of sufficient color and clarity to ensure that when the text is reproduced
26 from record, it shall be readable, and shall have the corresponding name typed, printed or
27 stamped underneath said signature. The typing or printing of any name or the applying of an
28 embossed or inked stamp shall not cover or otherwise materially interfere with any part of the
29 document except where provided for by law;

30 (6) The documents shall have a top margin of at least three inches of vertical space
31 from left to right, to be reserved for the recorder of deeds' certification and use. All other
32 margins on the document shall be a minimum of three-fourths of one inch on all sides.
33 Nonessential information such as form numbers, page numbers or customer notations may be
34 placed in the margin. A document may be recorded if a minor portion of a seal or incidental
35 writing extends beyond the margins. The recorder of deeds will not incur any liability for not
36 showing any seal or information that extends beyond the margins of the permanent archival
37 record.

38 2. Every document containing any of the items listed in this subsection that is
39 presented for recording, except plats and surveys, shall have such information on the first
40 page below the three-inch horizontal margin:

41 (1) The title of the document;

42 (2) The date of the document;

43 (3) All grantors' names;

44 (4) All grantees' names;

45 (5) Any statutory addresses;

46 (6) The legal description of the property; and

47 (7) Reference book and pages for statutory requirements, if applicable.

48

49 If there is not sufficient room on the first page for all of the information required by this
50 subsection, the page reference within the document where the information is set out shall be
51 stated on the first page.

52 3. From January 1, 2002, documents which do not meet the requirements set forth in
53 this section may be recorded for an additional fee of twenty-five dollars, which shall be
54 deposited in the recorders' fund established pursuant to subsection 1 of section 59.319.

55 4. Documents which are exempt from format requirements and which the recorder of
56 deeds may record include the following:

57 (1) Documents which were signed prior to January 1, 2002;

58 (2) Military separation papers;

59 (3) Documents executed outside the United States;

60 (4) Certified copies of documents, including birth and death certificates;

61 (5) Any document where one of the original parties is deceased or otherwise
62 incapacitated; ~~and~~

63 (6) Judgments or other documents formatted to meet court requirements; **and**

64 **(7) Any certificate of release of prohibited covenants.**

65 5. Any document rejected by a recorder of deeds shall be returned to the preparer or
66 presenter accompanied by an explanation of the reason it could not be recorded.

67 6. Recorders of deeds shall be allowed fees for their services as follows:

68 (1) For recording every deed or instrument: five dollars for the first page and three
69 dollars for each page thereafter except for plats and surveys;

70 (2) For copying or reproducing any recorded instrument, except surveys and plats: a
71 fee not to exceed two dollars for the first page and one dollar for each page thereafter;

72 (3) For every certificate and seal, except when recording an instrument: one dollar;

73 (4) For recording a plat or survey of a subdivision, outlets or condominiums: twenty-
74 five dollars for each sheet of drawings or calculations based on a size not to exceed twenty-
75 four inches in width by eighteen inches in height. For recording a survey of one or more
76 tracts: five dollars for each sheet of drawings or calculations based on a size not to exceed
77 twenty-four inches in width by eighteen inches in height. Any plat or survey larger than
78 eighteen inches by twenty-four inches shall be counted as an additional sheet for each
79 additional eighteen inches by twenty-four inches, or fraction thereof, plus five dollars per
80 page of other material;

81 (5) For copying a plat or survey of one or more tracts: a fee not to exceed five dollars
82 for each sheet of drawings and calculations not larger than twenty-four inches in width and
83 eighteen inches in height and one dollar for each page of other material;

84 (6) For a document which releases or assigns more than one item: five dollars for
85 each item beyond one released or assigned in addition to any other charges which may apply;
86 **however, for recording a document that releases prohibited covenants: no fee;**

87 (7) For every certified copy of a marriage license or application for a marriage
88 license: two dollars;

89 (8) For duplicate copies of the records in a medium other than paper, the recorder of
90 deeds shall set a reasonable fee not to exceed the costs associated with document search and
91 duplication; and

92 (9) For all other use of equipment, personnel services and office facilities, the
93 recorder of deeds may set a reasonable fee.

59.313. 1. The recorder of deeds in a city not within a county may refuse any
2 document presented for recording that does not meet the following requirements:

3 (1) The document shall consist of one or more individual pages not permanently
4 bound nor in a continuous form. The document shall not have any attachment stapled or
5 otherwise affixed to any page except as necessary to comply with statutory requirements,
6 provided that a document may be stapled together for presentation for recording; a label that
7 is firmly attached with a bar code or return address may be accepted for recording;

8 (2) The size of print or type shall not be smaller than eight-point type and shall be in
9 black or dark ink. Should any document presented for recording contain type smaller than
10 eight-point type, such document shall be accompanied by an exact typewritten copy not
11 smaller than eight-point type to be recorded contemporaneously as additional pages of the
12 document;

13 (3) The document must be of sufficient legibility to produce a clear and legible
14 reproduction thereof. Should any document not be of sufficient legibility to produce a clear
15 and legible reproduction, such document shall be accompanied by an exact typewritten copy
16 not smaller than eight-point type to be recorded contemporaneously as additional pages of the
17 document;

18 (4) The document shall be on white or light-colored paper of not less than twenty-
19 pound weight without watermarks or other visible inclusions, except for plats and surveys,
20 which may be on materials such as Mylar or velum. All text within the document shall be of
21 sufficient color and clarity to ensure that when the text is reproduced from record, it shall be
22 readable;

23 (5) All signatures on a document shall be in black or dark ink, such that such
24 signatures shall be of sufficient color and clarity to ensure that when the text is reproduced
25 from record, it shall be readable, and shall have the corresponding name typed, printed or
26 stamped underneath said signature. The typing or printing of any name or the applying of an
27 embossed or inked stamp shall not cover or otherwise materially interfere with any part of the
28 document, except where provided for by law;

29 (6) Every document, except plats and surveys, shall have a top margin of at least three
30 inches of vertical space from left to right, to be reserved for the recorder of deeds' certification
31 and use. All other margins on the document shall be a minimum of three-fourths of one inch
32 on all sides. Nonessential information such as form numbers, page numbers or customer

33 notations may be placed in the margin. A document may be recorded if a minor portion of a
34 seal or incidental writing extends beyond the margins. The recorder of deeds will not incur
35 any liability for not showing any seal or information that extends beyond the margins of the
36 permanent archival record.

37 2. Every document containing any of the items listed in this subsection that is
38 presented for recording, except plats and surveys, shall have such information on the first
39 page below the three-inch horizontal line:

- 40 (1) The title of the document;
- 41 (2) The date of the document;
- 42 (3) All grantors' names;
- 43 (4) All grantees' names;
- 44 (5) Any statutory addresses;
- 45 (6) The legal description or descriptions of the property; and
- 46 (7) Reference book and page for statutory requirements, if applicable.

47

48 If there is not sufficient room on the first page for all the required information, the page
49 reference within the document where the information is set out shall be placed on the first
50 page.

51 3. From January 1, 2002, documents which do not meet the requirements set forth in
52 this section may be recorded for an additional fee of twenty-five dollars, which shall be
53 deposited in the recorders' fund established pursuant to subsection 1 of section 59.319.

54 4. Documents which are exempt from format requirements and which the recorder of
55 deeds may record include the following:

- 56 (1) Documents which were signed prior to January 1, 2002;
- 57 (2) Military separation papers;
- 58 (3) Documents executed outside the United States;
- 59 (4) Certified copies of documents, including birth and death certificates;
- 60 (5) Any document where one of the original parties is deceased or otherwise
61 incapacitated; ~~and~~

62 (6) Judgments or other documents formatted to meet court requirements; **and**

63 **(7) Any certificate of release of prohibited covenants.**

64 5. Any document rejected by a recorder of deeds shall be returned to the preparer or
65 presenter accompanied by an explanation of the reason it could not be recorded.

66 6. Recorders of deeds shall be allowed fees for their services as follows:

- 67 (1) For recording every deed or instrument: ten dollars for the first page and five
68 dollars for each page thereafter;

- 69 (2) For copying or reproducing any recorded instrument, except surveys and plats:
70 three dollars for the first page and two dollars for each page thereafter;
- 71 (3) For every certificate and seal, except when recording an instrument: two dollars;
- 72 (4) For recording a plat or survey of a subdivision, outlots or condominiums: forty-
73 four dollars for each sheet of drawings and calculations based on a size of not to exceed
74 twenty-four inches in width by eighteen inches in height, plus ten dollars for each page of
75 other materials;
- 76 (5) For recording a survey of one tract of land, in the form of one sheet not to exceed
77 twenty-four inches in width by eighteen inches in height: eight dollars;
- 78 (6) For copying a plat or survey: eight dollars for each page;
- 79 (7) For every certified copy of a marriage license or application for a marriage
80 license: five dollars;
- 81 (8) For releasing on the margin: eight dollars for each item released;
- 82 (9) For a document which releases or assigns more than one item: seven dollars and
83 fifty cents for each item beyond one released or assigned in addition to any other charges
84 which may apply; **however, for recording a document that releases a prohibited**
85 **covenant: no fee;** and
- 86 (10) For duplicate reels of microfilm: thirty dollars each.
- 87
- 88 For all other use of equipment, personnel services and office space the recorder of deeds shall
89 set attendant fees.

442.403. 1. Any restrictive covenant recitals on property, real or personal, found in
2 any deeds, plats, restrictions, covenants, or other conveyances of any type or nature, filed for
3 record at any time in the office of the recorder of deeds in any county~~[, which relate]~~ **that**
4 **relate** to the race, color, religion, or national origin of any person~~;~~ shall be void and
5 unenforceable~~;~~ and shall be ignored, as if the same never existed.

6 2. Any person or legal entity with an interest in real property or any agent of such
7 person or entity, shall not incur any liability by reason of the mere existence of a restrictive
8 covenant described in subsection 1 of this section in any document filed for record before
9 May 3, 1948, in any recorder of deeds' office.

10 **3. No deed recorded on or after August 28, 2022, shall contain a reference to the**
11 **specific portion of a restrictive covenant purporting to restrict the ownership or use of**
12 **the property as prohibited under subsection 1 of this section. A recorder of deeds may**
13 **refuse to accept any deed submitted for recording that references the specific portion of**
14 **any such restrictive covenant. The attorney who prepares or submits a deed for**
15 **recording has the responsibility of ensuring that the specific portion of such a restrictive**
16 **covenant is not specifically referenced in the deed prior to such deed being submitted for**

17 recording. A deed may include a general provision that states that such deed is subject
18 to any and all covenants and restrictions of record; however, such provision shall not
19 apply to the specific portion of a restrictive covenant purporting to restrict the
20 ownership or use of the property as prohibited under subsection 1 of this section. Any
21 deed that is recorded after August 27, 2022, that mistakenly contains such a restrictive
22 covenant shall nevertheless constitute a valid transfer of real property.

23 4. Any restrictive covenant prohibited under subsection 1 of this section may be
24 released by the owner of real property subject to such covenant by recording a
25 certificate of release of prohibited covenants. The real property owner may record a
26 certificate either prior to recording of a deed conveying real property to a purchaser or
27 when such real property owner discovers that such prohibited covenant exists and
28 chooses to affirmatively release the same. A certificate may be prepared without
29 assistance of an attorney but shall conform substantially to the following certificate of
30 release of prohibited covenants form:

31 Certificate of Release of Prohibited Covenants

32

33 Place of record: _____

34

35 Date of instrument containing prohibited covenant(s): _____

36

37 Instrument type: _____

38

39 Deed book _____ page _____ or plat book _____ page _____

40

41 Name(s) of grantor(s): _____

42

43 Name(s) of current owner(s): _____

44

45 Real property description: _____

46

47 Brief description of prohibited covenant: _____

48

49 The covenant contained in the above-mentioned instrument is released from the above-
50 described real property to the extent that it contains terms purporting to restrict the
51 ownership or use of the property as prohibited by 442.403, RSMo.

52

53 The undersigned (is/are) the legal owner(s) of the property described herein.

54

55 **Given under my/our hand(s) this _____ day of _____, 20__.**

56

57 _____

58

59 _____

60

61 **(Current owners)**

62

63 **(County/city) of _____.**

64

65 **State of Missouri**

66

67 **Subscribed and sworn to before me this _____ day of _____, 20__.**

68

69 _____

70

71 **Notary public**

72 **My commission expires: _____**

✓